

Effective September 1, 2018.

**REGULATION OF TRANSPORTATION NETWORK
COMPANIES; REQUIRING AN OCCUPATIONAL PERMIT;
AUTHORIZING A FEE**

CHAPTER 231

H.B. No. 100

AN ACT

relating to the regulation of transportation network companies; requiring an occupational permit; authorizing a fee.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Subtitle C, Title 14, Occupations Code, is amended by adding Chapter 2402 to read as follows:

CHAPTER 2402. TRANSPORTATION NETWORK COMPANIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2402.001. **DEFINITIONS.** In this chapter:

- (1) "Department" means the Texas Department of Licensing and Regulation.
- (2) "Digital network" means any online-enabled application, website, or system offered or used by a transportation network company that enables the prearrangement of rides between passengers and drivers.
- (3) "Digitally prearranged ride" means a ride in a personal vehicle between points chosen by the passenger that is prearranged through a digital network.
- (4) "Personal vehicle" means a vehicle that:
 - (A) is owned, leased, or otherwise authorized for use by a driver; and
 - (B) is not a taxicab, limousine, or other vehicle regulated by a municipality under Section 215.004, Local Government Code, or a joint airport board under Section 22.081, Transportation Code.
- (5) "Transportation network company" means a corporation, partnership, sole proprietorship, or other entity that, for compensation, enables a passenger to prearrange with a driver, exclusively through the entity's digital network, a digitally prearranged ride. The term does not include an entity that provides:
 - (A) street-hail taxicab services;
 - (B) limousine or other car services arranged by a method other than through a digital network;
 - (C) shared expense carpool or vanpool arrangements; or
 - (D) a type of ride service for which:
 - (i) the fee received by the driver does not exceed the driver's costs of providing the ride; or
 - (ii) the driver receives a fee that exceeds the driver's costs associated with providing the ride but makes not more than three round-trips per day between the driver's or passenger's place of employment and the driver's or passenger's home.

Sec. 2402.002. **NATURE OF TRANSPORTATION NETWORK COMPANIES, DRIVERS, AND VEHICLES.** Transportation network companies and drivers logged in to the company's digital network are not common carriers, contract carriers, or motor carriers.

Sec. 2402.003. **CONTROLLING AUTHORITY.** (a) Notwithstanding any other provi-

sion of law, and except as provided by Subsections (b) and (c), the regulation of transportation network companies, drivers logged in to a digital network, and vehicles used to provide digitally prearranged rides:

- (1) is an exclusive power and function of this state; and
- (2) may not be regulated by a municipality or other local entity, including by:
 - (A) imposing a tax;
 - (B) requiring an additional license or permit;
 - (C) setting rates;
 - (D) imposing operational or entry requirements; or
 - (E) imposing other requirements.

(b) An airport owner or operator may impose regulations, including a reasonable fee, on a transportation network company that provides digitally prearranged rides to or from the airport.

(c) The governing body of a governmental entity with jurisdiction over a cruise ship terminal may impose regulations, including a reasonable fee, on a transportation network company that provides digitally prearranged rides to or from the terminal.

(d) Regulations under Subsections (b) and (c) may not:

- (1) conflict with the requirements of this chapter; or
- (2) include requirements for drivers in addition to those under Section 2402.107.

(e) This chapter does not affect the ability of a local authority, as defined by Section 541.002, Transportation Code, to:

- (1) take an action described by Section 542.202, Transportation Code, or otherwise authorized by Subtitle C, Title 7, Transportation Code, that allows the local authority to adopt traffic rules in the jurisdiction of the authority if the rules are applied to transportation network company vehicles and drivers in the same manner as non-transportation network company vehicles and drivers; or
- (2) enforce a provision of Subtitle C, Title 7, Transportation Code, or any other state law relating to the operation of traffic on public roads.

Sec. 2402.004. PROVISIONS APPLICABLE TO DRIVERS LOGGED IN TO DIGITAL NETWORK. A provision of this chapter that applies to a driver logged in to a digital network applies while the driver is logged in to receive requests for digitally prearranged rides and while the driver is logged in and providing a digitally prearranged ride.

SUBCHAPTER B. PERMIT REQUIRED

Sec. 2402.051. PERMIT REQUIRED. (a) A person may not operate a transportation network company in this state without obtaining and maintaining a permit issued under this chapter.

(b) The department shall issue a permit to each applicant that meets the requirements of this chapter and pays the fee required by Section 2402.052.

Sec. 2402.052. FEE. (a) A transportation network company shall annually pay to the department a fee to maintain a permit under this chapter in an amount determined by department rule to cover the costs of administering this chapter.

(b) The department may not impose a fee for:

- (1) drivers authorized to use a transportation network company's digital network; or
- (2) vehicles used to provide digitally prearranged rides.

SUBCHAPTER C. OPERATION OF TRANSPORTATION NETWORK COMPANIES

Sec. 2402.101. INSURANCE REQUIRED. The requirements of Chapter 1954, Insurance Code, apply to transportation network companies and drivers logged in to a digital

network.

Sec. 2402.102. *SHARED RIDES.* A digitally prearranged ride may be wholly or partly shared by multiple passengers if the passengers consent to sharing the ride.

Sec. 2402.103. *FARES.* A transportation network company that charges a fare for a digitally prearranged ride shall:

- (1) disclose to passengers the fare calculation method on the digital network; and
- (2) before the passenger enters the vehicle for the ride, provide through the digital network to the passenger requesting the ride:
 - (A) the applicable rates being charged; and
 - (B) the option to receive an estimated fare.

Sec. 2402.104. *DIGITAL NETWORK IDENTIFICATION OF DRIVERS AND VEHICLES TO PASSENGERS.* A transportation network company shall, before a passenger enters a vehicle for a digitally prearranged ride, provide through the company's digital network to the passenger requesting the ride:

- (1) the driver's first name and picture; and
- (2) the make, model, and license plate number of the driver's vehicle.

Sec. 2402.105. *ELECTRONIC RECEIPT.* Within a reasonable time following the completion of a digitally prearranged ride, the transportation network company whose digital network was used to prearrange the ride shall transmit, through electronic mail or text message, a receipt to the passenger who requested the ride that includes:

- (1) the origin and destination of the ride;
- (2) the total time and distance of the ride; and
- (3) an itemization of the total fare paid, if any.

Sec. 2402.106. *INTOXICATING SUBSTANCE POLICY.* (a) A transportation network company shall implement an intoxicating substance policy that prohibits a driver who is logged in to the company's digital network from any amount of intoxication.

(b) A transportation network company shall include on its Internet website:

- (1) a notice concerning the company's intoxicating substance policy; and
- (2) the means to make a complaint about a suspected violation of the policy.

(c) On receipt of a passenger complaint alleging a violation of the intoxicating substance policy, a transportation network company shall:

- (1) conduct an investigation into the reported incident; and
- (2) immediately suspend the driver's access to the company's digital network for the duration of the investigation.

(d) A transportation network company shall maintain records relevant to a complaint for a period of at least two years after the date the complaint is received.

Sec. 2402.107. *DRIVER REQUIREMENTS.* (a) Before permitting an individual to log in as a driver on the company's digital network, a transportation network company must:

- (1) confirm that the individual:
 - (A) is at least 18 years of age;
 - (B) maintains a valid driver's license issued by this state, another state, or the District of Columbia; and
 - (C) possesses proof of registration and automobile financial responsibility for each motor vehicle to be used to provide digitally prearranged rides;
- (2) conduct, or cause to be conducted, a local, state, and national criminal background check for the individual that includes the use of:
 - (A) a commercial multistate and multijurisdiction criminal records locator or other similar commercial nationwide database; and

- (B) the national sex offender public website maintained by the United States Department of Justice or a successor agency; and
 - (3) obtain and review the individual's driving record.
- (b) A transportation network company may not permit an individual to log in as a driver on the company's digital network if the individual:
 - (1) has been convicted in the three-year period preceding the issue date of the driving record obtained under Subsection (a)(3) of:
 - (A) more than three offenses classified by the Department of Public Safety as moving violations; or
 - (B) one or more of the following offenses:
 - (i) fleeing or attempting to elude a police officer under Section 545.421, Transportation Code;
 - (ii) reckless driving under Section 545.401, Transportation Code;
 - (iii) driving without a valid driver's license under Section 521.025, Transportation Code; or
 - (iv) driving with an invalid driver's license under Section 521.457, Transportation Code;
 - (2) has been convicted in the preceding seven-year period of any of the following:
 - (A) driving while intoxicated under Section 49.04 or 49.045, Penal Code;
 - (B) use of a motor vehicle to commit a felony;
 - (C) a felony crime involving property damage;
 - (D) fraud;
 - (E) theft;
 - (F) an act of violence; or
 - (G) an act of terrorism; or
 - (3) is found to be registered in the national sex offender public website maintained by the United States Department of Justice or a successor agency.
- (c) A transportation network company shall conduct or cause to be conducted an annual criminal background check described by Subsection (a)(2) for each driver authorized to access the company's digital network.

Sec. 2402.108. **DIGITALLY PREARRANGED RIDES ONLY.** A driver who is logged in to a digital network may not solicit or provide a ride for compensation unless the passenger has been matched to the driver through the digital network.

Sec. 2402.109. **PASSENGER ACTING IN UNLAWFUL, DISORDERLY, OR ENDANGERING MANNER.** A driver who has accepted a digitally prearranged ride may refuse to transport a passenger acting in an unlawful, disorderly, or endangering manner.

Sec. 2402.110. **DISPLAY OF DIGITAL IDENTIFICATION.** (a) In this section, "digital identification" means information stored on a digital network that may be accessed by a driver and that:

- (1) serves as proof of the identity of the driver;
 - (2) serves as proof that the insurance coverage requirements of Chapter 1954, Insurance Code, are satisfied;
 - (3) displays a photo of the driver;
 - (4) displays an image of the driver's vehicle; and
 - (5) identifies the make, model, and license plate number of the vehicle used by the driver.
- (b) On request of a law enforcement officer or a government official enforcing or administering this chapter, a driver providing a digitally prearranged ride shall:

- (1) display the driver's digital identification; and
- (2) display electronic proof that the ride was matched through the digital network.
- (c) This section does not require a driver to relinquish possession of the electronic device containing the digital identification.

Sec. 2402.111. **VEHICLE REQUIREMENTS.** (a) A transportation network company shall, for each motor vehicle used by a driver to provide digitally prearranged rides through the company's digital network:

- (1) require the vehicle to meet the requirements of Chapter 548, Transportation Code; and
- (2) confirm that the vehicle has:
 - (A) four doors; and
 - (B) a maximum passenger capacity of not more than eight people, including the driver.
- (b) A vehicle used to provide digitally prearranged rides may be owned, leased, or rented by, or otherwise made available to, the driver.
- (c) Section 547.607, Transportation Code, does not apply to a personal vehicle used to provide digitally prearranged rides.

Sec. 2402.112. **NONDISCRIMINATION; ACCESSIBILITY.** (a) A transportation network company shall adopt a policy that prohibits a driver logged in to the company's digital network from:

- (1) discriminating on the basis of a passenger's or potential passenger's location or destination, race, color, national origin, religious belief or affiliation, sex, disability, or age; and
- (2) refusing to provide service to a potential passenger with a service animal.
- (b) For the purposes of Subsection (a), "sex" means the physical condition of being male or female.
- (c) A transportation network company shall notify each person authorized to log in as a driver on the company's digital network of the nondiscrimination policy. A driver logged in to the company's digital network shall comply with the nondiscrimination policy.
- (d) A transportation network company may not impose an additional charge for transportation of individuals with physical disabilities because of those disabilities.
- (e) A transportation network company shall provide a passenger an opportunity to indicate whether the passenger requires a wheelchair-accessible vehicle. If a wheelchair-accessible vehicle cannot be provided, the company shall direct the requesting passenger to an alternate provider of wheelchair-accessible service, if available.

Sec. 2402.113. **ACCESSIBILITY PILOT PROGRAM.** (a) Each transportation network company shall conduct, for a period of two years beginning not later than the 90th day after the date the company is issued a permit under Section 2402.051, an accessibility pilot program in one of the four largest markets in which the company operates in this state to:

- (1) offer their services to disabled persons, including disabled persons using a fixed-frame wheelchair; and
- (2) ensure that, if necessary, referrals to alternate providers of wheelchair-accessible service are made in a manner that does not unreasonably delay the provision of service.
- (a-1) Notwithstanding Subsection (a), a transportation network company that is issued a permit under Section 2402.051 on or before January 1, 2018, shall begin the pilot program under Subsection (a) not later than that date. This subsection expires January 1, 2020.
- (b) Not later than the 100th day after the date a transportation network company begins a pilot program under Subsection (a), the company shall submit to the department a report demonstrating the company's compliance with Subsection (a).

(c) A transportation network company shall provide a report on the findings of the company's pilot program to each legislative standing committee with primary jurisdiction over transportation not later than the 75th day after the date the program ends. At a minimum, the report must include information regarding:

(1) the number of vehicles equipped to accommodate a passenger with a fixed-frame wheelchair that were available through the company's digital network in the market in which the pilot program was conducted at the time the program ended;

(2) the average time elapsed between the time a fixed-frame wheelchair-bound passenger requested a ride and the time the ride began;

(3) the number of rides provided to fixed-frame wheelchair-bound passengers during the duration of the program; and

(4) the number of instances in which the company referred a fixed-frame wheelchair-bound passenger to another provider because the passenger could not be accommodated by the company.

(d) The department:

(1) shall:

(A) by rule establish requirements for a report under Subsection (b); and

(B) provide the transportation network company with notice of those requirements at the time the department issues the company's permit; and

(2) may revoke the company's permit for failure to timely submit a report required under this section.

Sec. 2402.114. DRIVERS AS INDEPENDENT CONTRACTORS. A driver who is authorized to log in to a transportation network company's digital network is considered an independent contractor for all purposes, and not an employee of the company in any manner, if:

(1) the company does not:

(A) prescribe the specific hours during which the driver is required to be logged in to the company's digital network;

(B) impose restrictions on the driver's ability to use other transportation network companies' digital networks;

(C) limit the territory within which the driver may provide digitally prearranged rides; or

(D) restrict the driver from engaging in another occupation or business; and

(2) the company and the driver agree in writing that the driver is an independent contractor.

Sec. 2402.115. AGREEMENTS WITH LOCAL ENTITIES FOR LARGE EVENTS. Notwithstanding Section 2402.003, a municipality or other local entity may contract with a transportation network company operating in the municipality's or entity's jurisdiction for the coordination of large events occurring in the municipality's or entity's jurisdiction. An agreement under this section:

(1) may not exclude a transportation network company holding a permit under this chapter from providing services at the event; and

(2) must have comparable terms for each company providing services at the event.

SUBCHAPTER D. RECORDS AND OTHER INFORMATION

Sec. 2402.151. RETENTION AND SUBMISSION OF RECORDS. (a) A transportation network company shall maintain:

(1) records evidencing compliance with the requirements of this chapter for a period of two years;

(2) individual ride records for at least five years after the date the ride was provided; and

(3) driver records for at least five years after the date the driver ceases to be authorized to log in as a driver on the company's digital network.

(b) The department shall provide a means for information required to be submitted for the purposes of this chapter to be submitted electronically.

Sec. 2402.152. COLLECTION, USE, OR DISCLOSURE OF RECORDS AND OTHER COMPANY INFORMATION. (a) Any records, data, or other information disclosed to a public entity in this state, including the department, by a transportation network company, including names, addresses, and any other personally identifiable information of drivers is not subject to disclosure under Chapter 552, Government Code.

(b) A public entity, including the department, may not disclose any records, data, or other information provided by a transportation network company under this chapter to a third party except in compliance with a court order or subpoena. If information provided under this chapter is sought through a court order or subpoena, the public entity shall promptly notify the transportation network company to afford the company the opportunity to take actions to prevent disclosure.

(c) In collecting, using, or disclosing any records, data, or other information submitted by a transportation network company under this chapter, a public entity, including the department, shall:

(1) consider the potential risks to the privacy of the individuals whose information is being collected, used, or disclosed;

(2) ensure that the information to be collected, used, or disclosed is necessary, relevant, and appropriate to the proper administration of this chapter; and

(3) take all reasonable measures and make all reasonable efforts to protect, secure, and, where appropriate, encrypt or limit access to the information.

(d) A transportation network company required to submit, disclose, or otherwise provide personally identifiable information of drivers to a public entity of this state, including the department, is not liable in any civil or criminal action for any unauthorized disclosure, misuse, alteration, destruction, access or acquisition, or use of the information that occurs while the information is in the possession of any public entity of this state.

Sec. 2402.153. DISCLOSURE OF PASSENGER INFORMATION. (a) A transportation network company may disclose a passenger's personal identifying information to a third party only if:

(1) the passenger consents;

(2) the disclosure is required by a legal obligation; or

(3) the disclosure is required to:

(A) protect or defend the terms of use of the transportation network company service; or

(B) investigate a violation of those terms.

(b) Notwithstanding Subsection (a), a transportation network company may share a passenger's name with a driver accessing the company's digital network to facilitate:

(1) identification of the passenger by the driver; or

(2) communication between the passenger and the driver.

Sec. 2402.154. DATA SHARING WITH MUNICIPALITY. A municipality and a transportation network company may voluntarily enter into an agreement under which the company shares the company's data with the municipality.

SUBCHAPTER E. ENFORCEMENT

Sec. 2402.201. PERMIT SUSPENSION OR REVOCATION. The department may suspend or revoke a permit issued to a transportation network company that violates a provision of this chapter.

SECTION 2. A transportation network company operating under a municipal

ordinance in a municipality of this state immediately before the effective date of this Act may operate at any location in this state without the permit required under Section 2402.051, Occupations Code, as added by this Act, until the later of:

- (1) the 30th day after the date rules adopted by the Texas Department of Licensing and Regulation to administer Section 2402.051 become effective; or
- (2) the date the company's application for a permit under Section 2402.051 submitted to the department before the date described by Subdivision (1) of this section is approved or denied.

SECTION 3. On the effective date of this Act, any municipality's or other local entity's ordinance or policy related to transportation network companies or drivers authorized to access transportation network companies' digital networks is void and has no effect.

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2017.

Passed by the House on April 20, 2017: Yeas 110, Nays 35, 2 present, not voting;
passed by the Senate on May 17, 2017: Yeas 21, Nays 9.

Approved May 29, 2017.

Effective May 29, 2017.

MANNER IN WHICH A PAYOR OF PROCEEDS DERIVED FROM THE SALE OF OIL OR GAS PRODUCTION IS REQUIRED TO PROVIDE CERTAIN INFORMATION TO A ROYALTY INTEREST OWNER

CHAPTER 232

H.B. No. 129

AN ACT

relating to the manner in which a payor of proceeds derived from the sale of oil or gas production is required to provide certain information to a royalty interest owner.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Sections 91.501 and 91.506, Natural Resources Code, are amended to read as follows:

Sec. 91.501. **INFORMATION REQUIRED.** If payment is made to a royalty interest owner from the proceeds derived from the sale of oil or gas production pursuant to a division order, lease, servitude, or other agreement, the payor shall include the information required by Section 91.502 on the check stub, an attachment to the payment form, or another remittance advice *that accompanies the payment*.

Sec. 91.506. **EXEMPTION.** (a) *Except as provided by Subsection (b), if [H] the information required by Section 91.502 is provided in some other manner on a monthly basis, the payor is not required to include the information on the check stub, an attachment to the payment form, or another [other] remittance advice that accompanies the payment.*

(b) *If payment is made to the royalty interest owner by a paper check delivered by mail or by means of a private delivery service, the payor may not provide the information required by Section 91.502 in a manner other than by including the information on the check stub, an attachment to the payment form, or another remittance advice that accompanies the payment unless the payor obtains, or a previous payor has obtained, the consent of the royalty interest owner to provide the information in some other manner.*

SECTION 2. The change in law made by this Act applies only to a payment made on